



City of Seattle

Gregory J. Nickels, Mayor
Department of Design, Construction and Land Use
D. M. Sugimura, Acting Director

**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR OF
THE DEPARTMENT OF DESIGN, CONSTRUCTION AND LAND USE**

Application Number: 2203085
Applicant Name: Paul Wozniak for VoiceStream Wireless
Address of Proposal: 12000 15th Avenue NE

SUMMARY OF PROPOSED ACTION

Master Use Permit to establish use for future construction of a minor communication utility (VoiceStream Wireless) consisting of three (3) panel antennas (three (3) sector, one (1) antenna per sector) on the roof of an existing apartment building. Project includes equipment cabinet to be located in garage below grade.

The following approvals are required:

Administrative Conditional Use Review to allow a minor communication utility in a residential Lowrise 3 (L3) zone.

SEPA - Environmental Determination - *Chapter 25.05*, Seattle Municipal Code

SEPA DETERMINATION: ☐ EXEMPT ☐ DNS ☐ EIS

 ☒ DNS with conditions

 ☐ DNS involving non-exempt grading or demolition
 involving another agency with jurisdiction

BACKGROUND DATA

Site Location and Description

The subject property is located in a Multi-Family Residential Lowrise 3; Residential Commercial zone within the Northgate Overlay District (L3-RC-NG) located at 12000 15th Avenue NE in the northeast portion of Seattle. The subject site is located on the northeast corner of the intersection of 15th Avenue NE and NE 120th Street, just west of Pinehurst Way NE.

The site is developed with an existing four-story apartment building. The surrounding zoning and uses are:

North: Multi-Family Residential/Residential Commercial (L3-RC-NG) zone
East: Single-Family Residential (SF 7200-NG) zone
South: Commercial 2 (C2-40-NG) zone
West: Multi-Family Residential/Residential Commercial (L3-RC-NG) zone

Proposal Description

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The maximum proposed height for the top of the antennas (and the screening cabinet) is 56 feet above the existing grade level (the height of the building edge as measured from the lowest ground elevation of the building). The height limit for the L3 zone is thirty (30) feet above grade. Therefore, approval through an Administrative Conditional Use Permit is required to exceed the height limit of the zone as well as to locate the minor communication utility in a residential zone.

Public Comment

The public comment period for this proposal ended on July 31, 2002. DCLU has not received any comment letters regarding this proposal.

ADMINISTRATIVE CONDITIONAL USE CRITERIA AND ANALYSIS

Section 23.57.011.B of the Seattle Municipal Code (SMC) provides that a minor communication utility may be permitted in a Multi-Family zone as an Administrative Conditional Use subject to the requirements and conditioning considerations of this Section enumerated below.

- 1. Section 23.57.011.B.1: The project shall not be substantially detrimental to the residential character of nearby residentially zoned areas, and the facility and the location proposed shall be the least intrusive facility at the least intrusive location*

consistent with effectively providing service. In considering detrimental impacts and the degree of intrusiveness, the impacts considered shall include but not be limited to visual, noise, compatibility with uses allowed in the zone, traffic, and the displacement of residential dwelling units.

According to the plans submitted, the antennas will conform to codified requirements regarding setbacks and visual impacts. The proposed facility is to be located behind RF transparent screens that will completely obscure the antennas from view from any direction. The screens are designed to mimic the look of tubular metal chimneys. The applicant's plans depict integration of the screening facility into the architectural design of the existing building via a neutral screen color that would generally match the color of the host building.

The proposed minor utility does not appear to result in substantially detrimental compatibility impacts to the existing neighborhood.

Traffic will not be affected by the presence of the proposed facility. The plans as proposed do not give reason to expect unacceptable noise levels. No dwelling units will be displaced in conjunction with this application. Thus, the proposal will not be substantially detrimental to the residential character of nearby residentially zoned areas (See applicant's declarations and submitted plans).

2. *Section 23.57.011.B.2: The visual impacts that are addressed in section 23.57.016 shall be mitigated to the greatest extent practicable.*

According to the plans submitted, the proposed antennas will be entirely screened from view behind a fiberglass screen. Therefore, the proposal complies with this criterion.

3. *Section 23.57.011.B.3: Within a Major Institution Overlay District, a Major Institution may locate a minor communication utility or an accessory communication device, either of which may be larger than permitted by the underlying zone, when:*
 - a.) *the antenna is at least one hundred feet (100') from a MIO boundary, and*
 - b.) *the antenna is substantially screened from the surrounding neighborhood's view.*

The proposed site is not located within a Major Institution Overlay District. Therefore, this requirement does not apply to the subject proposal.

4. *Section 23.57.011.B.4: If the minor communication utility is proposed to exceed the zone height limit, the applicant shall demonstrate that the requested height is the minimum necessary for the effective functioning of the minor communication utility.*

The applicant's RF engineer has provided evidence (an affidavit from Dan Wilson dated January 3, 2003) that the proposed antenna height, 55 feet above existing grade, is the

minimum height necessary to ensure the effective functioning of the utility in the most inconspicuous manner possible. Therefore, the proposal complies with this criterion.

5. *Section 23.57.011.B.5: If the proposed minor communication utility is proposed to be a new freestanding transmission tower, the applicant shall demonstrate that it is not technically feasible for the proposed facility to be on another existing transmission tower or on an existing building in a manner that meets the applicable development standards. The location of a facility on a building on an alternative site or sites, including construction of a network that consists of a greater number of smaller less obtrusive utilities, shall be considered.*

According to the plans submitted, the proposed minor communication utility will not be a new freestanding transmission tower. Therefore, this requirement does not apply to the subject proposal (See applicant's declarations and submitted plans).

SUMMARY

The proposed project is consistent with the City of Seattle Municipal Code as it applies to wireless communication utilities. The facility is minor in nature and will not be detrimental to the surrounding area while providing needed and beneficial wireless communications service to the area.

The proposed project will not require the expansion of public facilities and services for its construction, operation and maintenance. The site will be unmanned and therefore will not require waste treatment, water or management of hazardous materials. Once installation of the facility has been completed, approximately one visit per month would occur for routine maintenance. No other traffic would be associated with the project.

DECISION - ADMINISTRATIVE CONDITIONAL USE

APPROVED.

SEPA ANALYSIS

Environmental review resulting in a Threshold Determination is required pursuant to the State Environmental Policy Act (SEPA), WAC 197-11, and the Seattle SEPA Ordinance (Seattle Municipal Code Chapter 25.05).

The SEPA Overview Policy (SMC 25.05.665 D) clarifies the relationship between codes, policies, and environmental review. Specific policies for each element of the environment, certain neighborhood plans, and other policies explicitly referenced may serve as the basis for exercising substantive SEPA authority. The Overview Policy states, in part: "Where City regulations have been adopted to address an environmental impact, it shall be presumed that such

regulations are adequate to achieve sufficient mitigation," subject to some limitations. Under such limitations/circumstances (SMC 225.05.665 D1-7) mitigation can be considered.

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant dated June 6, 2002. The information in the checklist, public comment, and the experience of the lead agency with review of similar projects forms the basis for this analysis and decision.

Short-Term Impacts

Environmental Health

The Federal Communications Commission (FCC) has pre-empted state and local governments from regulating personal wireless service facilities on the basis of environmental effects of radio frequency emissions. As such, no mitigation measures are warranted pursuant to the SEPA Overview Policy (SMC 25.05.665).

The applicant has submitted a "Statement of Federal Communication Commission Compliance for Personal Wireless Service Facility" and an accompanying "Affidavit of Qualification and Certification" for this proposed facility giving the calculations of radiofrequency power density at roof and ground levels expected from this proposal and attesting to the qualifications of the Professional Engineer who made the assessment. This complies with the Seattle Municipal Code Section 25.10.300 that contains Electromagnetic Radiation standards with which the proposal must conform. The Department's experience with review of this type of installation is that the EMR emissions constitute a small fraction of that permitted under both Federal standards and the standards of SMC 25.10.300 and therefore pose no threat to public health.

Construction and Noise Impacts

Codes and development regulations applicable to this proposal will provide sufficient mitigation for most impacts. The initial installation of the antennas and construction of the equipment room may include loud equipment and activities. This construction activity may have an adverse impact on nearby residences. Due to the close proximity of nearby residences, the Department finds that the limitations of the Noise Ordinance are inadequate to appropriately mitigate the adverse noise impacts associated with the proposal. The SEPA Construction Impact policies, (SMC 25.05.675.B) allow the Director to limit the hours of construction to mitigate adverse noise and other construction-related impacts. Therefore, the proposal is conditioned to limit construction activity to non-holiday weekday hours between 7:30 a.m. and 6:00 p.m.

DECISION

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this

declaration is to satisfy the requirement of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

- [X] Determination of Non-Significance. This proposal has been determined not to have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21.030(2) (c).

ADMINISTRATIVE CONDITIONAL USE CONDITIONS

None.

SEPA CONDITIONS

During Construction

The following condition to be enforced during construction shall be posted at the site in a location on the property line that is visible and accessible to the public and to construction personnel from the street right-of-way. If more than one street abuts the site, conditions shall be posted at each street. The conditions will be affixed to placards prepared by DCLU. The placards will be issued along with the building permit set of plans. The placards shall be laminated with clear plastic or other waterproofing material and shall remain posted on-site for the duration of the construction.

1. In order to further mitigate the noise impacts during construction, the hours of construction activity shall be limited to non-holiday weekdays between the hours of 7:30 a.m. and 6:00 p.m. This condition may be modified by DCLU to allow work of an emergency nature or allow low noise interior work. This condition may also be modified to permit low noise exterior work after approval from the Land Use Planner.

Signature: _____ (signature on file) Date: March 10, 2003

John Bissell, Contract Land Use Planner
Department of Design, Construction and Land Use